

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PERDUE FARMS INC.,

Civil Action No.: 1:23-cv-06777

Plaintiff,

- against -

COMPLAINT

WITH JURY DEMAND

A & M BRONX BAKING, INC.,
MARTIN RODRIGUEZ, CRAIG M. HEATWOLE
and MITCHELL HEATWOLE,

Defendants.
-----X

Plaintiff, PERDUE FARMS INC., by and through their attorneys SOBEL PEVZNER, LLC, complaining of the Defendants, **A & M BRONX BAKING, INC., MARTIN RODRIGUEZ, CRAIG M. HEATWOLE** and **MITCHELL HEATWOLE** and allege as follows:

THE PARTIES

1. Plaintiff, PERDUE FARMS INC., was and still is a foreign corporation, organized and existing under the laws of the State of Maryland and authorized to do business in the State of New York, with a principal place of business in Salisbury, Maryland

2. Defendant, A & M BRONX BAKING, INC., was and still is a domestic corporation authorized to conduct business in the State of New York with offices in Westchester County, New York.

3. Defendant, A & M BRONX BAKING, INC., was the owner of a 2019 Kenworth freight tractor trailer bearing New York State license plate number 75492MM.

4. Defendant, A & M BRONX BAKING INC., maintained the aforesaid 2019

Kenworth freight tractor trailer bearing New York State license plate number 75492MM.

5. Defendant, A & M BRONX BAKING, INC., controlled the aforesaid 2019 Kenworth freight tractor trailer bearing New York State license plate number 75492MM.

6. Defendant, MARTIN RODRIGUEZ, was a resident of Yonkers, New York.

7. Defendant, MARTIN RODRIGUEZ, operated the aforesaid 2019 Kenworth freight tractor trailer bearing New York license plate number 75492MM with the knowledge and consent of the owner, A & M BRONX BAKING, INC.

8. Defendant, MARTIN RODRIGUEZ, was employed by defendant, A & M BRONX BAKING, INC.

9. Defendant, MARTIN RODRIGUEZ, operated the aforesaid motor vehicle within the scope of his employment with its owner, defendant, A & M BRONX BAKING, INC.

10. At all times mentioned, and on December 16, 2022, defendant, MARTIN RODRIGUEZ, controlled the aforesaid vehicle.

11. Defendant, CRAIG M. HEATWOLE, was a resident of Oakton, Virginia.

12. Defendant, CRAIG M. HEATWOLE, owned managed, maintained and controlled a 2003 Ford 2DSD bearing Virginia license plate number 6568XJ.

13. Defendant, MITCHELL HEATWOLE, was a resident of Oakton, Virginia.

14. Defendant, MITCHELL HEATWOLE, operated and controlled a 2003 Ford 2DSD bearing Virginia license plate number 6568XJ.

15. Defendant, MITCHELL HEATWOLE, operated the aforesaid motor vehicle bearing Virginia registration and license plate number 6569XJ with the knowledge, permission and consent of the defendant, CRAIG M. HEATWOLE.

16. Plaintiff, PERDUE FARMS INC., was the owner or lessor of a 2021 Volvo freight

tractor trailer bearing Maryland license plate number 939F88.

17. Plaintiff, PERDUE FARMS INC., maintained the aforesaid 2021 Volvo freight tractor trailer bearing Maryland license plate number 939F88.

18. Plaintiff, PERDUE FARMS INC., controlled the aforesaid 2021 Volvo freight tractor trailer bearing Maryland license plate number 939F88.

19. Plaintiff, PERDUE FARMS INC, was the operator of a 2021 Volvo freight tractor trailer through its employees, or other authorized agents, bearing Maryland license plate number 939F88 with the knowledge and consent of the owner, PERDUE FARMS INC.

20. At all times mentioned, and on December 16, 2022, plaintiff, PERDUE FARMS INC, controlled the aforesaid vehicle.

JURISDICTION AND VENUE

21. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1332, as this action is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs of this action.

22. Venue is proper pursuant to 28 U.S.C. §1391 in that the events or omissions giving rise to the claims herein occurred in this District.

FACTS

23. On December 16, 2022, the vehicle owned, operated, controlled, and maintained by plaintiff, PERDUE FARMS INC., was involved in a motor vehicle accident on Interstate 95, at or near 50 feet of mile post marker 6.4, County of Westchester, State of New York, with the aforesaid freight tractor trailer owned by defendant, A & M BRONX BAKING, INC., and operated by defendant, MARTIN RODRIGUEZ, as well as the vehicle owned by defendant, CRAIG M. HEATWOLE, and operated by MITCHELL HEATWOLE.

24. On December 16, 2022, the vehicle owned by defendant, CRAIG M. HEATWOLE, was negligently controlled, operated, and maintained by defendant, MITCHELL HEATWOLE, including, but not limited to it being negligently abandoned on Interstate 95, at or near 50 feet of mile post marker 6.4, County of Westchester, State of New York.

25. Said accident occurred due to the negligence of defendant, CRAIG M. HEATWOLE, in the ownership, operation, management and control of the 2003 Ford 2DSD bearing Virginia license plate number 6568XJ.

26. Said accident occurred due to the negligence of defendant, MITCHELL HEATWOLE, in the operation and control of the 2003 Ford 2DSD bearing Virginia license plate number 6568XJ.

27. Said accident occurred due to the negligence of the defendant, MARTIN RODRIGUEZ's negligent operation of the aforesaid 2019 Kenworth freight tractor trailer bearing New York State license plate number 75492MM.

28. Said accident occurred due to the negligence of the defendant, A & M BRONX BAKING, INC., in the ownership, management and control of the aforesaid 2019 Kenworth freight tractor trailer bearing New York State license plate number 75492MM.

29. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the defendants, without any fault or negligence on the part of said plaintiff contributing thereto.

AS AND FOR A FIRST CAUSE OF ACTION

30. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in paragraphs "1" through "29" with the same force and effect as if set forth herein.

31. As a result of the said accident, plaintiff's tractor-trailer sustained property damage.

32. As a direct and proximate result of the aforesaid acts of carelessness, recklessness and/or negligent acts and/or omissions, the plaintiff, PERDUE FARMS INC., sustained damages totaling the sum of \$112,801.83, for repairs resulting from the damages and losses sustained.

33. As a result of the foregoing, defendants are liable to plaintiff in the amount of \$112,801.83, exclusive of interest and costs of this action.

WHEREFORE, the plaintiff, PERDUE FARMS INC., respectfully demands judgment against the defendants herein as follows: on the First Cause of Action in the sum of ONE HUNDRED AND TWELVE THOUSAND, EIGHT HUNDRED AND ONE AND EIGHTY-THREE CENTS (\$112,801.83), together with costs, disbursements, interest, delay damages and such other relief as this Court may be deem appropriate.

Dated: Huntington, New York
August 2, 2023

Respectfully Submitted,

SOBEL PEVZNER, LLC

By:



CURTIS SOBEL, ESQ. (CS-0964)
Attorneys for Plaintiff:
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File No.: Perdue-16080

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**COMPLAINT
WITH JURY DEMAND**

Signature (Rule 130-1.1-a)

Curtis Sobel

CURTIS SOBEL, ESQ.

SOBEL PEVZNER, LLC

Attorneys for Plaintiff:

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